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In re Application of
Littrell
Application No. 10/827,201
Filed: April 19, 2004
Attorney Docket No. 145512

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition filed October 8, 2004, which is being treated as a petition under 37 CFR 1.10, to accord the above-identified application a filing date of April 19, 2004, instead of April 13, 2004.

Paragraph (c) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where there is a discrepancy between the filing date initially accorded by the Office and the "date-in" entered by the USPS. Paragraph (d) of 37 CFR 1.10 sets forth procedures for filing a petition for a filing date where the "date-in" is incorrectly entered or omitted by the USPS.

Petitioner has failed to provide evidence establishing the "date-in" entered by the USPS. Specifically, petitioner has failed to provide the PTO with a copy of the express mail label. Since a copy of an express mail label has not been provided, petitioner has failed to establish the "date-in" entered by the USPS. Therefore, petitioner has failed to establish a discrepancy between the filing date accorded by the Office and the "date-in" entered by the USPS. In addition, petitioner has failed to establish that the "date-in" was incorrectly entered or omitted by the USPS.

Petitioner has provided a Track and Confirm Statement from the USPS which indicates the application was accepted by the USPS at 4:47 pm on April 19, 2004. Therefore, the petition is granted. In the future, petitioner should take steps to receive an express mail label with a clear date-in, and not rely solely on possible database results. If the Office receives a label with an omitted or illegible date-in, the Office will give the application a filing date of the date the package is received, unless a petition is filed. A petition involves additional work by petitioner and the Office, and also delays prosecution of the application into a patent.

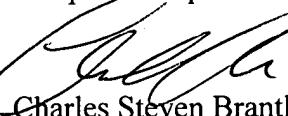
Since relief has been granted under 37 CFR 1.10, a petition fee has not been charged to petitioner's deposit account.

¹ Paragraph (b) of 37 CFR 1.10 provides,

Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application using a filing date of April 19, 2004.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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Office of Petitions